



Hundredth Legislature - First Session - 2007
Committee Statement
LB 124

Hearing Date: January 29, 2007

Committee On: Banking, Commerce and Insurance

Introducer(s): (Banking)

Title: Revise powers of state-chartered banks, building and loan associations, and credit unions

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

8	Yes	Senators Pahls, Langemeier, Carlson, Christensen, Gay, Hansen, Pankonin, Pirsch
	No	
	Present, not voting	
	Absent	

Proponents:

Senator Rich Pahls
John Munn
Robert J Hallstrom
Brandon Luetkenhaus

Representing:

Introducer
NE Department of Banking and Finance
NE Bankers Association
NE Credit Union League

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 124 (Banking, Commerce and Insurance Committee), introduced at the request of the Director of Banking, would amend section 8-1,140 of the Nebraska Banking Act, section 8-355 of the building and loan statutes, and section 21-17,115 of the Credit Union Act to provide that state-chartered banks, building and loan associations, and credit unions will have the same rights, powers, privileges, benefits, and immunities as their national or federal counterparts. The bill would provide, section by section, as follows:

Section 1 would amend section 8-1,140 of the Nebraska Banking Act, which is the “wild-card” statute for state-chartered banks. This section would be amended to give state-chartered banks the same rights, powers, privileges, benefits, and immunities which may be exercised by a national bank doing business in Nebraska as of the effective date of the bill. Due to state constitutional restrictions, this statute is amended annually.

Section 2 would amend section 8-355, which is the “wild-card” statute for state-chartered building and loan associations. This section would be amended to give state-chartered building and loan associations the same rights, powers, privileges, benefits, and immunities which may be exercised by a federal savings and loan association doing business in Nebraska as of the effective date of the bill. Due to state constitutional restrictions, this statute is amended annually.

Section 3 would amend section 21-17,115 of the Credit Union Act, which is the “wild-card” statute for state-chartered credit unions. This section would be amended to give state-chartered credit unions the same rights, powers, privileges, benefits, and immunities which may be exercised by a federal credit union doing business in Nebraska as of the effective date of the bill. Due to state constitutional restrictions, this statute is amended annually.

Section 4 would provide for repealers.

Section 5 would provide for the emergency clause.

Explanation of amendments, if any:

The committee amendments (AM299) would become the bill. The committee amendments contain the provisions of and any committee amendments to the following bills:

1. The provisions of LB 122 (Banking, Commerce and Insurance Committee), introduced at the request of the Director of Banking and Finance, would amend the statutes relating to assessments, examination costs, and fees collected by the Department of Banking and Finance. The amendments would update the laws relating to the Financial Institution Assessment Cash Fund to authorize the department to bill examination costs immediately after the examinations, to include fiduciary assets and off-balance sheet receivables as part of total assessable assets, to address examination costs for out-of-state institutions and entities, to provide for pro-rating of assessments in certain situations, to allow for administrative action if amounts owed are unpaid, and to authorize installment payments. Related statutes would be correspondingly updated. Amends: Sections 8-108, 8-601, 8-602, 8-915, 8-2107, 8-2312, 8-2504, 21-17,112, 45-347, 45-351, 45-710, 45-716, 45-920, 45-927, 45-1014, and 45-1017. Outright repeals: Section 21-1739.

2. The provisions of LB 124 (Banking, Commerce and Insurance Committee), introduced at the request of the Director of Banking and Finance, would be the annual re-enactment of the legislation which provides state-chartered banks, savings and loan associations, and credit unions with the same rights, powers, and privileges as their federally chartered counterparts. Generally called ‘wild card’ legislation, these provisions would be subject to the emergency clause. Amends: Section 8-1,140, 8-355, and 21-17,115.

3. The provisions of LB 125 (Pahls, Carlson, Christensen, Gay, Hansen, Langemeier, Pankonin, Pirsch), introduced at the request of the Director of Banking and Finance, would amend the statute which authorizes state-chartered banks to make community development investments. The first amendment would increase the amount of a bank's aggregate investment from 10% to 15% of its capital and surplus. This reflects a parity with an identical increase for nationally chartered banks that was adopted as part of the Financial Services Regulatory Relief Act of 2006. The second amendment would repeal the provision which requires banks to account for these investments as "other assets". Depending on the amount of a bank's investment in a community development project, that accounting designation is no longer always correct. Repeal of that provision means that the investments would be accounted for according to generally accepted accounting principles and/or call report instructions. Amends: Section 8-148.01.

4. The provisions of LB 126 (Pahls, Carlson, Christensen, Gay, Hansen, Langemeier, Pankonin, Pirsch), introduced at the request of the Director of Banking and Finance, would expand the list of financial institutions covered under the statutes which prohibit two or more financial institutions in the same city, village, or county in Nebraska from having identical or confusingly similar names, to include trust companies. Amends: Section 8-1901.

5. The provisions of LB 127 (Pahls, Carlson, Christensen, Gay, Hansen, Langemeier, Pankonin, Pirsch), introduced at the request of the Director of Banking and Finance, would update the loan broker statutes to require that, in addition to current statutorily required information, (1) the disclosure statement required to be given to prospective borrowers must include the telephone number of the loan broker and the electronic mail and Internet address of the loan broker, if any, and (2) the loan brokerage agreement to be signed by the loan broker and the borrower must include the telephone number and electronic mail and Internet address, if any, of the loan broker and the loan broker's agent for service of process. Amends: Sections 45-191.01 and 45-191.04.

6. The provisions of LB 128 (Pahls, Carlson, Christensen, Gay, Hansen, Langemeier, Pankonin, Pirsch), introduced at the request of the Director of Banking and Finance, would amend the Nebraska Installment Sales Act to provide as a condition of new renewal licensing, that sales finance companies must have, and maintain, a minimum net capital requirement of \$100,000 and must provide a surety bond of \$50,000 to cover any losses resulting from violations of law. Current licensees would have until October 1, 2008 to meet these new requirements. Amends: Sections 45-334, 45-340, 45-344, 45-346, 45-352, and 45-353.

7. The provisions of LB 129 (Pahls, Carlson, Christensen, Gay, Hansen, Langemeier, Pankonin, Pirsch), introduced at the request of the Director of Banking and Finance, would amend the Mortgage Bankers Registration and Licensing Act. The first set of amendments would update the act by adding two prohibitions. The amendments to the act would prohibit a person with a felony conviction from being employed at, or as an agent of, a mortgage banker. While it is currently illegal for a mortgage banker licensee to employ such a person, it is not illegal for that person to be employed. Next, the amendments to the act would prohibit licensees, employees and agents from obtaining a signature on a document to be notarized without obtaining a notarial attestation until sometime later and outside the presence of the signer. While current law – applicable to notaries – prohibits a notary from such action, there is no penalty for

the person causing such action to occur. The second set of amendments would update the act to authorize Nebraska's participation in a uniform system of electronic licensing of the entities that make residential mortgage loans. Over 30 states, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, and the mortgage banking industry have been working for some time to develop the system, which is patterned after the Central Registration Depository system for broker-dealers and agents. The roll out date is to be January 1, 2008 for new applications and December 31, 2008 for renewal applications. Related changes include licensing and fees for branch offices, including new definitions of branches, and change of control procedures. Further changes include new definitions of breach of security of the system and multistate licensing and application system. Amends: Sections 45-701, 45-702, 45-705, 45-706, 45-708, 45-711, 45-714, and 45-715.

8. The provisions of LB 130 (Pahls, Carlson, Christensen, Gay, Hansen, Langemeier, Pankonin, Pirsch), introduced at the request of the Director of Banking and Finance, would update the Nebraska Installment Act to provide requirements for the relocation of a licensed office. The proposed requirements would include an application, a fee of \$150, and the publication of a notice in the county where the licensee wishes to relocate. If a substantive objection is filed to the proposed relocation, the director shall conduct an administrative hearing. Amends: Sections 45-103 and 45-1033.

9. The provisions of LB 149 (Gay) would amend banking law which currently provides that no individual, firm, company, corporation, or association, other than a bank, building and loan association, savings and loan association, or savings bank, shall use the word "bank" or any derivative thereof as any part of a title or description of any business activity.

The bill would expand the list of entities to which this section does not apply to include: (1) affiliates or subsidiaries of (a) a bank; (b) a building and loan association, savings and loan association, or savings bank; or (c) a bank holding company and (2) organizations substantially owned by (a) a bank; (b) a building and loan association, savings and loan association, or savings bank; (c) a bank holding company; (d) or a combination of banks, building and loans associations, savings and loan associations, savings banks, or bank holding companies.

The bill would further amend the existing list of entities to which this section does not apply by providing that it does not apply to firms, companies, corporations, or associations as have been in existence and doing business under a name composed in part of the word bank or some derivative thereof prior to "December 1, 1975," rather than "for a period of ten years or more prior to October 19, 1963". Amends: Section 8-113.

10. The provisions of LB 156 (Langemeier) would amend banking law regarding boards of directors, bank premises, and account bonuses and premiums: (1) The bill would delete requirements that a state-chartered bank's board of directors shall select from among its members a secretary and shall select cashier. (2) The bill would provide that investments by a state-chartered bank in bank premises necessary for the transaction of business shall include premises that are owned and occupied, real estate for future expansion, parking facilities, and other property for use of officers, employees, or customers. (3) The bill would outright repeal provisions regarding account bonuses and premiums, and with such provisions repealed, federal law on the subject would become applicable to state-chartered banks by way of the wild-card

statute for state-chartered banks. Amends: Sections 8-124 and 8-149. Outright repeals: Section 8-1,123.

11. The provisions of LB 114 (Pahls) would amend various sections of the Nebraska Uniform Trust Code to adopt clarifying updates in the Uniform Trust Code approved and recommended to the states by the National Conference of Commissioners on Uniform State Laws. Amends: Sections 30-3805, 30-3846, 30-3848, 30-3849, 30-3851, and 30-38,110.

12. The provisions of LB 189 (Mines) would amend the Nebraska Uniform Trust Code to re-write current provisions in order to provide that the following transactions shall not be presumed to be affected by a conflict of interest between the personal and fiduciary interests of the trustee if the transaction and any investment made pursuant to it “complies with the prudent investor rule” and “is in the best interests of the beneficiaries”: (1) an investment by the trustee in securities of an investment company to which the trustee or its affiliate provides services in a capacity other than as trustee, and (2) the placing of securities by a trustee through a securities broker that is part of the same company as the trustee, or is affiliated with the trustee. The bill would further provide that the trustee could only be “reasonably” compensated for such transactions. Amends: Section 30-3867.

13. The provisions of LB 346 (Pahls) would amend Nebraska’s “central filing system” law relating to the filing of effective financing statements (EFS) to (a) better accommodate the electronic filing of an EFS and amendments and continuation statements; and (b) provide an alternative to the current requirement to include the debtor’s social security number or IRS taxpayer identification number on an EFS and thereby protect the identity of the debtor. Amends: Sections 52-1301, 52-1302, 52-1307, 52-1308, 52-1312, 52-1313, 52-1314, 52-1315, 52-1317, 52-1318, 52-1602, and UCC sections 9-315, 9-320, 9-529, and 9-531.

Senator Rich Pahls, Chairperson